AN ACT D.C. ACT 16-195

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA NOVEMBER 17, 2005

To order the closing of a portion of a public alley in Square 5217, bounded by Nannie Helen Burroughs Avenue, 56th Street, Foote Street, and 55th Street, N.E., in Ward 7.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of a Portion of a Public Alley in Square 5217, S.O. 03-1548, Act of 2005".

- Sec. 2. Pursuant to section 201 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-202.01), the Council finds the unimproved portion of a public alley in Square 5217, as shown in the Surveyor's plat filed in S.O. File 03-1548, is unnecessary for alley purposes and orders it closed, with title to vest as shown on the Surveyor's Plat. The approval of the Council of this closing is contingent upon the satisfaction of all conditions set forth in the S.O. File 03-1548.
- Sec. 3. The Secretary to the Council shall transmit a copy of this act, upon its effective date, to the Surveyor of the District of Columbia and the District of Columbia Recorder of Deeds.
 - Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

hairman

Council of the District of Columbia

Mayor

District of Columbia

APPROVED

November 17, 2005

AN ACT

D.C. ACT 16-196

Codification District of Columbia Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA NOVEMBER 17, 2005

To require, on a temporary basis, that the Mayor conduct a study relative to escalating motor vehicle fuel costs and heating fuel costs in the District of Columbia and to make recommendations to the Council concerning methods that may be utilized to stabilize such increased costs, and to require the Executive Office of the Mayor to investigate possible price gouging by local motor vehicle fuel retailers and wholesalers, and to report such findings to the Council by December 15, 2005.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Gasoline Fuel Tax Examination Temporary Act of 2005".

Sec. 2. Fuel cost reduction plan.

- (a) The Mayor shall submit a comprehensive plan to the Council setting forth the most appropriate method or methods that may be executed to address increasing costs associated with motor vehicle fuel and natural gas. The report shall, at a minimum examine the following methods: moving price ceilings; elimination of the gas tax in whole or in part; establishing gasoline sales-tax holidays; gas vouchers; and examining the city's buying power to purchase home heating fuel.
 - (b) The report shall include:
- (1) Historical fuel (motor vehicle, natural gas, heating oil) cost trends in the District of Columbia from calendar year 2003 through December 2005;
- (2) An assessment concerning the multiple variables that have influenced the cost shifts through the designated period; and
- (3) An assessment concerning possible price gouging, by local motor vehicle fuel retailers, and wholesalers.
 - (c) The report shall be due on December 15, 2005.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30 day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code Section 1-206.02 (c)(1)), and publication in the

1

Codification District of Columbia Official Code, 2001 Edition

West Group Publisher, 1-800-328-9378.

District of Columbia Register.

(b) This act shall expire after 225 days, of its having taken effect.

a. holling

Chairman

Council of the District of Columbia

Mayor

District of Columbia

APPROVED

November 17, 2005

AN ACT D.C. ACT 16-197

Codification District of Columbia Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA NOVEMBER 17, 2005

To provide funds from the windfall tax collections from sales of heating oil and artificial gas for the Low Income Home Energy Assistance Program and Utility Discount Programs administered by the District of Columbia Office of Energy.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Heating Oil and Artificial Gas Consumer Relief Temporary Act of 2005".

Sec. 2. Increased funding for the Low Income Home Energy Assistance Program and Utility Discount Programs.

Except for the funds which are deposited in the Ballpark Revenue Fund under D.C. Official Code § 47-2501(a-2), for fiscal year 2006, the portion of the funds collected with respect to sales of heating oil and artificial gas under D.C. Official Code § 47-2501(a) which exceed the amount which is estimated, as of the September 2005 revenue estimates, to be collected with respect to such sales in the budget and financial plan shall be used for the Low Income Home Energy Assistance Program and Utility Discount Programs administered by the District of Columbia Office of Energy.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

a. Williams

Chairman .

Council of the District of Columbia

Mayor

District of Columbia

APPROVED

November 17, 2005

AN ACT

D.C. ACT 16-198

Codification District of Columbia Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA NOVEMBER 17, 2005

To amend, on a temporary basis, Chapter 20 of Title 21 of the District of Columbia Official Code to add a definition of "emergency care" to the guardianship law; to amend Chapter 22 of Title 21 of the District of Columbia Official Code to authorize psychologists to certify incapacity to make a health-care decision, to permit court-appointed mental retardation advocates to provide substituted consent for health-care decisions for incapacitated consumers, and to authorize a health-care provider, the District of Columbia, or an interested person to file a petition for the appointment of a limited guardian if there is no individual who can act as a substitute health-care decisionmaker for an incapacitated consumer; and to amend the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 to require initial and periodic evaluations of decisionmaking capacity and availability of health-care decisionmaking supports for consumers of services funded by the Mental Retardation and Developmental Disabilities Administration, to repeal a provision providing a process for authorizing emergency medical surgery for a consumer that is inconsistent with federal law, and to require the Administrator of the Mental Retardation and Developmental Disabilities Administration to issue reports on the decisionmaking capacity of and the availability of health-care decisionmaking supports for consumers of services funded by the Mental Retardation and Developmental Disabilities Administration.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health-Care Decisions for Persons with Mental Retardation and Developmental Disabilities Temporary Amendment Act of 2005".

- Sec. 2. Chapter 20 of Title 21 of the District of Columbia Official Code is amended as follows:
- (a) Section 21-2011 is amended by adding a new paragraph (5A) to read as follows:

 "(5A) "Emergency care" means immediate treatment, including diagnostic treatment, provided in response to a sudden, acute, and unanticipated medical crisis in order to avoid injury, extreme pain, impairment, or death."

(b) Section 21-2046(a) is amended by striking the phrase "life threatening emergency" and inserting the phrase "life-threatening situation or a situation involving emergency care" in its place.

Note, § 21-2011

Note, § 21-2046

Sec. 3. Chapter 22 of Title 21 of the District of Columbia Official Code is amended as follows:

West Group Publisher, 1-800-328-9378.

(a) Section 21-2202 is amended by adding a new paragraph (6A) to read as follows: "(6A) "Qualified psychologist" means a person who is licensed pursuant to § 3-1205.01 and has:

Note, § 21-2202

"(A) One year of formal training within a hospital setting; or

"(B) Two years of supervised clinical experience in an organized health care setting, one year of which must be post-doctoral.".

(b) Section 21-2204(a) is amended as follows:

Note, § 21-2204

(1) Strike the word "physicians" wherever it appears and insert the word "professionals" in its place.

(2) Strike the second sentence and insert the sentence "One of the 2 certifying professionals shall be a physician and one shall be a qualified psychologist or psychiatrist." in its place.

(c) Section 21-2210 is amended as follows:

(1) Subsection (a) is amended to add a new paragraph (1A) to read as follows:

Note, § 21-2210

Note, § 7-1301.03

"(1A) A court-appointed mental retardation advocate of the patient, if the ability to grant, refuse, or withdraw consent is within the scope of the advocate's appointment under § 7-1304.13.".

(2) A new subsection (h) is added to read as follows:

- "(h) If no person listed in subsection (a) of this section is reasonably available, mentally capable, and willing to act, the health-care provider, or the District of Columbia, for those persons committed or admitted to receive habilitation or other services pursuant to Chapter 13 of Title 7 of the District of Columbia Official Code, or any interested person may petition the Superior Court of the District of Columbia for appointment of a limited guardian for health care pursuant to § 21-2044(c)."
- Sec. 4. The Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.02 et seq.), is amended as follows:
- (a) Section 103(6) (D.C. Official Code § 7-1301.03(6)) is amended to read as follows:

 "(6) "Comprehensive evaluation" means an assessment of a person with mental retardation by persons with special training and experience in the diagnosis and habilitation of persons with mental retardation, which includes a documented sequence of observations and examinations intended to determine the person's strengths, developmental needs, and need for services. The initial comprehensive evaluation shall include, but not be limited to, documentation of:

"(A) A physical examination that includes the person's medical history;

"(B) An educational evaluation, vocational evaluation, or both;

"(C) A psychological evaluation, including an evaluation of cognitive and adaptive functioning levels;

"(D) A social evaluation;

"(E) A dental examination;

"(F) An evaluation of whether the person has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment; and

"(G) A determination of whether the person:

"(i) Has executed or could execute a durable power of attorney for health care in accordance with D.C. Official Code § 21-2204;

"(ii) Has been offered an opportunity to execute a durable power

2

West Group Publisher, 1-800-328-9378.

of attorney for health care pursuant to D.C. Official Code § 21-2204 and declined; or "(iii) Has an individual reasonably available, mentally capable, and willing to act as a substitute health-care decisionmaker pursuant to D.C. Official Code § 21-2210.".

(b) Section 413 (D.C. Official Code § 7-1304.13) is amended by adding a new

subsection (n) to read as follows:

"(n) If so authorized by the Court, the mental retardation advocate shall be permitted to grant, refuse, or withdraw consent on behalf of his or her client with respect to the provision of any health-care service, treatment, or procedure, consistent with the provisions of Chapter 22 of Title 21 of the District of Columbia Official Code."

(c) Section 504(a) (D.C. Official Code § 7-1305.04(a)) is amended to read as follows: "(a)(1) Prior to each customer's commitment under this act, the customer shall receive, pursuant to section 403, a comprehensive evaluation or screening and an individual habilitation plan. Within 30 days of a customer's admission pursuant to section 302, the customer shall have a comprehensive evaluation or screening and an individual habilitation plan.

"(2) All individual habilitation plans shall include information on whether the person has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment

and shall identify whether the person:

"(A) Has executed or could execute a durable power of attorney for health care in accordance with D.C. Official Code § 21-2204;

"(B) Has been offered an opportunity to execute a durable power of attorney for health care pursuant to D.C. Official Code § 21-2204 and declined; or

"(C) Has an individual reasonably available, mentally capable, and willing to act as a substitute health-care decisionmaker pursuant to D.C. Official Code § 21-2210.

- "(3) Annual reevaluations or screenings of the customer shall be provided as determined by the customer's interdisciplinary team. Annual reevaluations and screenings shall include a review and update to the individual habilitation plan information on whether the person has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment and whether the person:
- "(A) Has executed or could execute a durable power of attorney for health care in accordance with D.C. Official Code § 21-2204;

"(B) Has been offered an opportunity to execute a durable power of attorney for health care pursuant to D.C. Official Code § 21-2204 and declined; or

- "(C) Has an individual reasonably available, mentally capable, and willing to act as a substitute health-care decisionmaker pursuant to D.C. Official Code § 21-2210.
- "(4) Nothing in this subsection shall be read to require any person to execute a durable power of attorney for health care.".

(d) Section 507 (D.C. Official Code § 7-1305.07) is repealed.

(e) A new section 507a (to be codified at D.C. Official Code § 7-1305.07a) is added to read as follows:

"Sec. 507a. (a)(1) It shall be the policy of the District government to ensure that all persons who become incapable of making or communicating health-care decisions for themselves have available health-care decisionmakers.

"(2) The Administrator of the Mental Retardation and Developmental Disabilities Administration shall develop, by no later than December 1, 2005, a written plan to

Note, § 7-1304.13

Note, § 7-1305.04

Note Repeal § 7-1305.07 Note, § 7-1305.07

encourage, as much as possible, the availability of health-care decisionmakers pursuant to D.C. Official Code § 21-2210 for all incapacitated and potentially incapacitated persons under the jurisdiction of the MRDDA.

"(b) Commencing with the month of November 2005, the Administrator of the MRDDA shall produce a monthly report, to be completed by the 15th day of the following

month, which shall include:

- "(1) Aggregate statistics on the number of petitions filed in that month by the District of Columbia for appointment of a plenary, temporary, or limited guardian where the basis for the petition was the need for a health-care decisionmaker;
 - "(2) For each petition reported pursuant to paragraph (1) of this subsection:

"(A) A description of the nature of the health-care need which formed the basis for the petition for guardianship;

"(B) The time elapsed between MRDDA's identification of the need for a health-care decision and the date on which the petition for guardianship was filed;

"(C) The time elapsed between the date on which the guardianship petition was filed and a decision was made by the court; and

(D) Whether a guardian was appointed;

"(3) A description of all activities carried out by the MRDDA during the month to promote the availability of health-care decisionmakers for individuals currently or potentially in need of health-care decisionmakers pursuant to D.C. Official Code § 21-2210; and

"(4) Information indicating the number of substitute decisions made during the month for *Evans* class members and the number of substitute decisions made during the month

for non-Evans class members.

"(c) By April 15, 2006, the Administrator of the MRDDA shall produce a report assessing the current and potential health-care decisionmaking needs of all consumers of services funded by the MRDDA. In developing the methodology for the report, the Administrator of the MRDDA may consult with community stakeholders, including advocates, legal experts, service providers, and people with disabilities. The report shall, at a minimum:

"(1) Include aggregate statistics summarizing the numbers of consumers of the

MRDDA who:

- "(A) Have a plenary guardian;
- "(B) Have a limited guardian authorized to make health-care decisions;
- "(C) Have a temporary guardian authorized to make health-care

decisions;

"(D) Have executed a durable power of attorney for health care in accordance with D.C. Official Code § 21-2204;

"(E) Have been offered an opportunity to execute a durable power of

attorney for health care pursuant to D.C. Official Code § 21-2204 and declined;

"(F) Have individuals identified as reasonably available, mentally capable, and willing to act as substitute health-care decisionmakers pursuant to D.C. Official Code § 21-2210; and

"(G) Lack any available health-care decisionmaker in the categories

described in subparagraphs (A) through (F) of this paragraph;

"(2) Include aggregate statistics describing the numbers of consumers taking psychotropic medications, and an assessment of the degree to which health-care decisionmaking support may be required for new prescriptions, changes in prescription dose, or prescription termination;

4

Codification District of Columbia Official Code, 2001 Edition

West Group Publisher, 1-800-328-9378.

"(3) Analyze all aggregate statistics by *Evans v. Williams* (CA No. 76-293) class membership and non-membership, and by commitment and admission status; and

"(4) Describe any impediments to the use of limited and temporary guardianship

and durable power of attorney for health care.

"(d)(1) The Administrator of the MRDDA shall submit the plan described in subsection (a) of this section, the monthly report described in subsection (b) of this section, and the final report described in subsection (c) of this section to:

"(A) The Council's Committee on Human Services;

"(B) The Mayor;

"(C) The designated state protection and advocacy agency for the District of Columbia established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, approved October 30, 2000 (114 Stat. 1677; 42 U.S.C. § 15001 et seq.);

"(D) The Special Masters and Independent Court Monitor in

Evans v. Williams (CA No. 76-293); and

"(E) The Quality Trust for Individuals with Disabilities.

"(2) The Administrator of the MRDDA shall make copies of plans and reports referenced in paragraph (1) of this subsection available to members of the public upon request.

"(e) Nothing in this section shall be read to require any person to execute a durable

power of attorney for health care.".

Sec. 5. Fiscal impact statement.

The Council anticipates that this act will reduce Medicaid costs to the District of Columbia because prompt attention to medical needs will reduce overall medical costs.

Sec. 6. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Cha¶rman

Council of the District of Columbia

Mayor

District of Columbia

APPROVED, November 17, 2005.

Codification District of Columbia Official Code, 2001 Edition

5

West Group Publisher, 1-800-328-9378.

AN ACT

D.C. ACT 16-199

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 17, 2005

Codification
District of
Columbia
Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

To amend, on a temporary basis, the Producer Licensing Act of 2002 to clarify the due process rights afforded to producers under the suspension and revocation provisions of the act; and to provide the Commissioner of the Department of Insurance, Securities, and Banking with summary suspension authority to suspend the certificate of authority of an individual or firm producer without giving notice if the Commissioner finds upon examination that the further transaction of business by the producer would be hazardous to the public or to the policyholders or to the creditors of the producer in the District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Producer Summary Suspension Temporary Amendment Act of 2005".

Sec. 2. Section 12 of the Producer Licensing Act of 2002, effective March 27, 2003 (D.C. Law 14-264; D.C. Official Code § 31-1131.12), is amended as follows:

Note, § 31-1131-12

- (a) The section heading is amended to read as follows:
- "Sec. 12. License denial, nonrenewal, suspension, or revocation.".
- (b) The lead-in text of subsection (a) is amended to read as follows:
- "(a) The Commissioner may place an insurance individual or business entity producer on probation; suspend, revoke, or refuse to issue or renew an insurance producer's license; may levy a civil penalty in accordance with subsection (d) of this section; may issue subpoenas and administer oaths; or take any combination of these actions if an insurance producer:".
 - (c) Paragraph (b) is amended as follows:
 - (1) Paragraph (1) is amended as follows:
 - (A) Designate the existing text as subparagraph (A).
 - (B) A new subparagraph (B) is added to read as follows:
- "(B) The Commissioner shall not revoke or suspend the license of any such producer until the Commissioner has given the producer not less than 30 days notice of the proposed revocation or suspension and of the grounds alleged thereof, and has afforded the producer an opportunity for a full hearing; provided, that if the Commissioner shall find upon examination that the further transaction of business by the producer would be hazardous to the

public or to the policyholders or creditors of the producer in the District, the Commissioner may suspend the authority without giving notice as herein required, subject to a hearing within 30 days of the effective date of the order of suspension.".

- (2) Paragraph (2) is amended to read as follows:
- "(2) In a hearing under this subsection, the Commissioner may administer oaths to witnesses and issue subpoenas. A witness testifying falsely under oath shall be subject to the penalties of perjury. The Commissioner's authority to issue subpoenas shall not be limited to the context of a hearing if the Commissioner shall find upon examination that the issuance of a subpoena is necessary to protect the public interest."
 - (d) Subsection (c) is amended to read as follows:
- "(c)(1) The license of a business entity may be suspended, revoked, or denied renewal if the Commissioner finds, after a hearing as provided in paragraph (2) of this subsection, that:
- "(A) The occurrence of a license violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the business entity;
 - "(B) The violation was not reported to the Commissioner; and
 - "(C) Corrective action was not taken.
- "(2) The Commissioner shall not suspend, revoke, or deny renewal of the license of a business entity until the Commissioner has given the producer not less than 30 days notice of the proposed suspension, revocation, or denial and of the grounds alleged therefor, and has afforded the producer an opportunity for a full hearing; provided, that if the Commissioner shall find upon examination that the further transaction of business by the producer would be hazardous to the public or to the policyholders or creditors of the producer in the District, the Commissioner may suspend the authority without giving notice as herein required, subject to a hearing within 30 days of the effective date of the order of suspension."
- Sec. 3. The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).
- Sec. 4. (a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

hairman

Council of the District of Columbia

Mayor

District of Columbia

Approved

November 17, 2005

AN ACT

D.C. ACT 16-200

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 17, 2005

Codification
District of
Columbia
Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

To amend, on an emergency basis, due to Congressional review, Title 16 of the District of Columbia Official Code to conform the general garnishment provisions to the income withholding requirements applicable to support orders, to provide for the enforcement of support orders by withholding according to applicable criteria, to require the Superior Court of the District of Columbia ("Court") to order that certain support payments be made through the Collection and Disbursement Unit, and to require that payments under support orders subject to enforcement by the IV-D agency be made in equal monthly installments; and to amend the District of Columbia Child Support Enforcement Amendment Act of 1985 to revise and update applicable definitions, to fully establish the IV-D agency as the District's Collection and Disbursement Unit, to specify the support payments that must be made through the Collection and Disbursement Unit, to revise the requirements for the content of support orders, to clarify and revise the criteria for withholding and the process through which withholding shall be implemented, to transfer responsibility for implementing withholding from the Court to the IV-D agency, to state the amounts that shall be withheld for current support and arrearages and provide a means for requesting a change in these amounts, to authorize the Court to enforce orders to withhold issued by the IV-D agency, to clarify that a notice of withholding to the obligor is only required in cases of initiated withholding being enforced by the IV-D agency, to eliminate escrow provisions relating to objections to withholding, to clarify the definition of a mistake of fact for the purpose of an objection to withholding, to specify that the time frame for resolving an objection to withholding begins on the date of service of the objection on the opposing party, to clarify the required contents of the notice or order to withhold to the holder, to require the holder to notify the IV-D agency of a termination of the obligor's employment, to expand the time frame during which a holder must submit payments to the Collection and Disbursement Unit and specify when withholding must begin, to authorize both the Court and the IV-D agency to notify the holder to terminate the withholding, to require the IV-D agency to issue an order to withhold to an obligor's new employer within 2 business days of receipt of updated employment information, to require the pro-ration of all types of payments among the support orders of multiple obligees, to clarify the requirements of interstate withholding,

to clarify that the IV-D agency is the District's centralized parent locator service and require persons and entities to provide the IV-D agency with specified information, to clarify that an administrative proceeding before the IV-D agency is not available to challenge notices or orders to withhold, and to make other conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Income Withholding Transfer and Revision Congressional Review Emergency Amendment Act of 2005".

- Sec. 2. Title 16 of the District of Columbia Official Code is amended as follows:
- (a) The table of contents for Chapter 5 is amended by adding the phrase "§ 16-571.01. Enforcement of support orders by attachment or garnishment." after the phrase "§ 16-571. Definitions.".
 - (b) A new section 16-571.01 is added to read as follows:
 - "§ 16-571.01. Enforcement of support orders by attachment or garnishment.
- "Notwithstanding any other provision of this subchapter, a notice or order to withhold issued to enforce a support order pursuant to Subchapter I of Chapter 2 of Title 46 shall have priority over any other legal process and shall be implemented according to the procedures, limitations, and requirements of that act.".
- (c) Section 16-573(b) is amended by striking the phrase "; except that, in the case of child support judgments, the employer shall continue to withhold the payments from the judgment debtor until receipt of an order of the court terminating the withholding".
- (d) Section 16-577 is amended by striking the period at the end of the second sentence and adding the phrase ", except that a notice or order to withhold issued pursuant to Subchapter I of Chapter 2 of Title 46 shall have priority over any other legal process and shall be subject to the limitations stated in section 303(b) of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 U.S.C. § 1673(b))." in its place.
- (e) Section 16-582 is amended by adding the sentence "Unless otherwise specified, this subchapter does not apply to notices or orders to withhold issued pursuant to Subchapter I of Chapter 2 of Title 46." at the end.
- (f) Section 16-911(a)(1) is amended by striking the phrase "and shall enforce support orders through withholding as required under section 46-207" and inserting the phase "and all support orders shall be enforceable by withholding as provided in section 46-207" in its place.
 - (g) Section 16-916 is amended to add a new subsection (c-4) to read as follows:
- "(c-4) All support orders subject to enforcement by the IV-D agency pursuant to title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. § 651 et seq.), shall require the payment of support in equal monthly amounts on the first day of each month. If a support order does not require the payment of support in this manner and the support order is or becomes subject to enforcement by the IV-D agency, the IV-D agency may

Note, § 16-573

Note, § 16-577

Note, § 16-582

Note, § 16-911

Note, § 16-916

direct the payor, upon notice to both parents, to pay the support in equal monthly amounts on the first day of each month; provided, that the total of the monthly amounts required to be paid in one year cumulatively equals the total support required to be paid annually under the support order.".

(h) Section 16-916.01(o)(3A) is amended by striking the phrase "specific facility," and inserting the phrase "specific facility (except where the parent is incarcerated for contempt for failure to pay child support pursuant to section 46-225.02)," in its place.

Note, § 16-916.01

- Sec. 3. The District of Columbia Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6-166; D.C. Official Code § 46-201 et seq.), is amended as follows:
 - (a) Section 2 (D.C. Official Code § 46-201) is amended to read as follows:

"Sec. 2. Definitions.

Note, § 46-201

"For the purposes of this act, the term:

- "(1) "Business day" means a day on which District offices are open for regular business.
- "(2) "Caretaker" means a parent, relative, guardian, or other person whose needs are included in a public assistance payment for a dependent child and who is using those payments for the benefit of the dependent child.
- "(3) "Collection and Disbursement Unit" or "CDU" means the centralized unit operated by the IV-D agency for the collection and disbursement of support payments as required under section 454B of title IV, part D of the Social Security Act, approved August 22, 1996 (110 Stat. 2207; 42 U.S.C. § 654B).
 - "(4) "Court" means the Superior Court of the District of Columbia.
- "(5) "Custodian" means the parent, relative, guardian, or other person with whom the dependent child resides.
- "(6) "Dependent child" means any child whose support is required by D.C. Official Code § 16-916, or any child to whom a responsible relative owes a duty of support.
 - "(7) "Duty of support" means:
 - (A) Any duty of support imposed by statute or by common law;
- (B) Any duty of support imposed by court order, decree, or judgment, whether interlocutory or final; and
- (C) Any duty of reimbursement imposed by law for monies expended by the District for support, including public assistance and foster care.
- "(8) "Earnings" means any remuneration based on employment, including, but not limited to, wages, salaries, annuities, retirement benefits, unemployment compensation, and disability benefits.
- "(9) "Entity" means a partnership, firm, association, corporation, sole proprietorship, company, organization, or other business, including a governmental or nonprofit

organization.

- "(10) "IV-D agency" means the Child Support Services Division of the Office of the Attorney General for the District of Columbia, or successor organizational unit, that is responsible for administering or supervising the administration of the District's State Plan under title IV, part D, of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. § 651 et seq.), pertaining to parent locator services, paternity establishment, and the establishment, modification, and enforcement of support orders.
- "(11) "Holder" means any person, firm, association, corporation, government official, or other entity that is believed to possess property of an obligor, including earnings or other income.
- "(12) "Mayor" means the Mayor of the District of Columbia or the Mayor's designee.
- "(13) "Notice to withhold" means a written notice informing a holder that an obligor's support order is enforceable by withholding and directing the holder to implement the withholding.
- "(14) "Obligee" means a person or entity who is entitled to receive support pursuant to a support order.
- "(15) "Obligor" means a person who is required to pay support pursuant to a support order.
- "(16) "Order to withhold" means an order that requires a holder to turn over earnings or other income in a specified amount to a specified payee rather than to an individual to whom the earnings or other income would otherwise be payable.
- "(17) "Other income" means any income available to an individual, whether or not derived from remuneration based on employment.
- "(18) "Public assistance" means assistance granted under the District's Temporary Assistance for Needy Families Program or Program on Work, Employment, and Responsibility pursuant to the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-201.01 et seq.).
- "(19) "Responsible relative" means a person obligated under law for the support of a dependent child.
- "(20) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief."
 - (b) Section 3a (D.C. Official Code § 46-202.01) is amended to read as follows: "Sec. 3a. Collection and Disbursement Unit.

Note, § 46-202.01

- "(a) The IV-D agency is established as the centralized Collection and Disbursement Unit for the collection and disbursement of support payments and shall operate the CDU either directly or through a contract or cooperative agreement with another entity.
- "(b) The Collection and Disbursement Unit shall collect and disburse support payments under the following support orders, and obligors and holders required to pay support pursuant to these orders shall submit payments to the CDU for disbursement to the obligee:
- "(1) All support orders enforced by the IV-D agency pursuant to title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. § 651 et seq.);
- "(2) All support orders not enforced by the IV-D agency where the support order was initially issued in the District on or after January 1, 1994, and for which withholding of the obligor's earnings or other income has commenced; and
- "(3) All other support orders for which the Court has ordered that payments be made through the Collection and Disbursement Unit, or for which withholding of the obligor's earnings or other income has commenced.
- "(c) The IV-D agency shall operate the Collection and Disbursement Unit in coordination with the automated system the IV-D agency maintains pursuant to section 27j.
- "(d)(1) The Collection and Disbursement Unit shall use automated procedures, electronic processes, and computer-driven technology, to the maximum extent that is feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures:
- "(A) For receipt of payments from obligors, holders, and other states, and for disbursements to obligees, the IV-D agency, and the IV-D agencies of other states;
 - "(B) For accurate identification of payments;
 - "(C) To ensure prompt disbursement of each obligee's share of any

payment; and

- "(D) To furnish to any obligor or obligee, upon request, timely information on the current status of support payments required to be made through the Collection and Disbursement Unit pursuant to subsection (b) of this section.
- "(2) The Collection and Disbursement Unit shall not be required to convert and maintain, in automated form, records of payments made before August 22, 1996, for support orders subject to withholding that are not enforced by the IV-D agency.
- "(e) The Collection and Disbursement Unit shall disburse all amounts payable within 2 business days after receipt from the employer or other holder if sufficient information identifying the payee is provided. The Collection and Disbursement Unit may delay the disbursement of collections toward arrearages until any appeal with respect to such arrearages has been resolved."
- (c) Section 5(d) (D.C. Official Code § 46-204(d)) is amended by adding a new paragraph (3) to read as follows:
 - "(3) Incarceration for contempt for failure to pay child support pursuant to

section 26b shall not constitute a change in circumstances sufficient to warrant a modification of support under subsection (a) of this section.".

(d) Section 6 (D.C. Official Code § 46-205) is amended to read as follows:

Note, § 46-205

"Sec. 6. Contents of support order.

- "All support orders, whether they are original orders or modifications of existing orders, shall contain the following:
- "(1) A provision requiring the withholding of support payments from the obligor's earnings or other income in accordance with this act;
- "(2) Notice that the support order shall be enforceable by withholding as specified in sections 8 and 8a;
- "(3) Notice that payments required by a support order specified in section 3a(b) shall be made through the Collection and Disbursement Unit and any other payments shall be considered a gift and shall not offset the duty of support;
- "(4) A provision that directs the parties to file and update the information specified in section 27b with the IV-D agency and the Court in accordance with that section;
- "(5) Terms providing for the payment of the child's medical expenses, whether or not health insurance is available to pay for those expenses, which shall include a provision directing the obligor and obligee to notify the IV-D agency and the Court of the following:
- "(A) Any change in either the obligor's or the obligee's access to health insurance coverage for the child or the reasonableness of the costs of coverage; and
- "(B) All health insurance policy information necessary to enroll the child in the health insurance to which the obligor or obligee has access;
- "(6) Notice that if the obligor is required under the support order to provide health insurance coverage for a child, the obligor's employer will, upon receipt of notice of the health insurance coverage provision, enroll the child in health insurance coverage and deduct the premiums from the obligor's earnings in accordance with sections 2 and 3 of the Medicaid Benefits Protection Act of 1994, effective March 14, 1995 (D.C. Law 10-202; D.C. Official Code §§ 1-307.41, 1-307.42), and the Medical Support Establishment and Enforcement Amendment Act of 2004, effective March 30, 2004 (D.C. Law 15-130; D.C. Official Code § 46-251.01 et seq.);
- "(7) Notice that the amount and name of the obligor and obligee of all support orders entered, modified, registered, or enforced in the District after December 23, 1997 shall be reported to a consumer credit reporting agency if the obligor owes overdue support in the amount of \$1,000 or more;
- "(8) The name, address, and telephone number of the obligor's current employer; and
- "(9) Notice that an order to withhold may be changed upon a motion by a party or the IV-D agency for a reapportionment of periodic arrears payments pursuant to section 9(c)."

(e) Section 6a (D.C. Official Code § 46-205.01) is amended as follows:

Note, § 46-205.01

- (1) The section heading is amended by striking the phrase "child and spousal".
- (2) The text is amended by striking the word "Superior".
- (f) Section 7 (D.C. Official Code § 46-206) is amended as follows:

(1) Subsection (a) is amended to read as follows:

Note, § 46-206

- "(a) In any case brought in Court under D.C. Official Code § 11-1101(a)(1), (3), (10), or (11) involving the establishment of support, the Clerk of the Court shall issue notice to the alleged responsible relative stating that a hearing to determine the matter of support has been scheduled. This hearing shall be scheduled within 45 days after the date the application is filed."
 - (2) Re-designate subsection (b-1) as subsection (f).
 - (3) Subsection (c) is amended to read as follows:
 - "(c) The notice shall include the following:
 - "(1) The name of the person for whom support is being claimed;
- "(2) A demand that the alleged responsible relative attend a hearing and the date, time, and place of the hearing;
- "(3) An explanation of the possible consequences of the alleged responsible relative's failure to attend the scheduled hearing;
- "(4) A demand that the alleged responsible relative bring to the hearing any record in the relative's possession of earnings received in the past 2 years, including receipts for earnings provided by an employer, or any wage and tax statements prepared by an employer setting forth earnings for tax purposes;
- "(5) Notice that the alleged responsible relative may be represented by counsel at any stage of the proceedings;
- "(6) An explanation that a request for a continuance may result in the setting of interim support or the posting of collateral; and
 - "(7) A copy of the complaint or petition.".
 - (4) A new subsection (e) is added to read as follows:
 - "(e) Where a party is seeking a modification of a support order:
 - "(1) The Clerk of the Court shall issue notice to the opposing party:
 - "(A) Stating that a hearing to determine the matter of support has been

scheduled;

"(B) Containing the information stated in subsection (c) of this section;

and

- "(C) Including a copy of the motion for modification;
- "(2) The hearing shall be scheduled within 45 days after the date the application is filed; and
- "(3) Personal service on the opposing party may be made in accordance with subsection (b) or (f) of this section.".

(g) Section 8 (D.C. Official Code § 46-207) is amended to read as follows: "Sec. 8. Enforcement by withholding.

- "(a) All support orders, whether they are original orders or modifications of existing orders, that are effective on or after January 1, 1994, or that are effective on or after November 1, 1990 in cases being enforced by the IV-D agency pursuant to title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. § 651 et seq.), shall be immediately enforceable by withholding, unless the Court finds there is good cause not to require immediate withholding or the parties agree in writing to an alternative method of payment.
- "(b) A finding of good cause not to require immediate withholding pursuant to subsection (a) of this section shall be based on at least:
- "(1) A written finding and explanation by the Court establishing the reasons that immediate withholding would not be in the best interests of the child; and
- "(2) Proof of timely payment of previously ordered support in cases involving the modification of support orders.
- "(c) A written agreement to an alternative method of payment shall be signed by the parties, and by the IV-D agency for support orders being enforced by the IV-D agency. The agreement shall be submitted to the Court for its review and approval, and entered into the Court's record.
- "(d) All support orders being enforced by the IV-D agency that are not immediately enforceable by withholding under subsection (a) of this section, including support orders subject to a finding of good cause or a written agreement to an alternative method of payment, shall become enforceable by withholding on the earliest of:
 - "(1) The date the obligor requests that the withholding begin;
- "(2) The date the custodian requests that the withholding begin; provided, that the IV-D agency approves the request pursuant to procedures the IV-D agency adopts for determining that withholding is in the best interests of the child; or
 - "(3) The date on which arrearages equal one month of support payments.
- "(e) A support order shall be enforceable by withholding pursuant to subsection (a) or (d) of this section regardless of whether or not the Court has entered an order authorizing withholding as a means of enforcement.
- "(f) All support orders not enforceable by withholding under subsection (a) or (d) of this section shall be enforceable by withholding on the effective date of a court order authorizing the withholding. The Court shall enter an order authorizing withholding, at the request of a party, upon a showing that:
 - "(1) Arrearages equal one month of support payments; or
 - "(2) Withholding is in the best interests of the child.".
 - (h) A new section 8a is added to read as follows:
 - "Sec. 8a. Implementation of withholding.

- "(a) The IV-D agency shall implement withholding for support orders enforceable by withholding pursuant to section 8 by issuing an order to withhold in the format prescribed by federal law and serving this order on the holder of the obligor's earnings or other income as follows:
- "(1) For support orders that are immediately enforceable by withholding pursuant to section 8(a), within 2 business days after the date the support order is received if the holder's address is known, or, if the holder's address is unknown, within 2 business days after receiving or locating the holder's address.
- "(2) For support orders that become enforceable by withholding pursuant to section 8(d), within 2 business days after the date the support order becomes enforceable by withholding if the holder's address is known, or, if the holder's address is unknown, within 2 business days after receiving or locating the holder's address.
- "(3) For support orders enforceable by withholding pursuant to section 8(f), within 2 business days of receipt of a written request from the Court or a party that includes a copy of the support order and the order authorizing the withholding; provided, that the holder's address is known, or if the holder's address is unknown, within 2 business days after receiving the holder's address.
- "(b) If an obligor changes employment while a withholding is in effect, the IV-D agency shall serve an order to withhold on the new holder within 2 business days after receiving or locating the new holder's address.
- "(c) For the purpose of this section, the IV-D agency shall be deemed to have received the holder's address on the date the IV-D agency's computerized support enforcement system receives notice of income or an income source from a court, a state, a holder, the Federal Parent Locator Service, or another source recognized by the IV-D agency, or the date information regarding a newly hired employee is entered into the District of Columbia Directory of New Hires pursuant to section 27f. The Court shall provide the IV-D agency with information it receives concerning the name or address of a holder within 2 business days after receiving the information.
- "(d) The IV-D agency shall use the automated system it maintains pursuant to section 27j to the maximum extent that is feasible to assist and facilitate the collection and disbursement of support payments and the implementation of withholding, including:
 - "(1) Transmission of orders to withhold to employers and other holders;
- "(2) Ongoing monitoring to promptly identify failures to make timely payment of support; and
 - "(3) Automatic use of enforcement procedures if payments are not timely made.
- "(e) Any person or entity may serve a notice to withhold in the format prescribed by federal law on a holder of an obligor's earnings or other income to inform the holder that the obligor's support order is enforceable by withholding and to require the holder to implement withholding in accordance with this act. A person or entity serving a notice to withhold shall

provide a copy of the support order and the order authorizing the withholding to the holder with the notice.

- "(f) Notices and orders to withhold may be served without prior notice to the obligor, by in-person delivery, certified mail, first-class mail, facsimile, or electronically, if the holder can receive electronic notices.".
 - (i) Section 9 (D.C. Official Code § 46-208) is amended to read as follows:

"Sec. 9. Withholding.

- Note, § 46-208
- "(a) Notwithstanding any other provision of Subchapter II or III of Chapter 5 of Title 16, where a notice or order to withhold is served on a holder of an obligor's earnings or other income, the withholding shall be for an amount sufficient to satisfy the obligor's periodic support obligation, an amount equal to 25% of the periodic support obligation if the obligor owes overdue support, and other costs or fees required by the support order.
- "(b) When an obligor is no longer subject to a periodic support obligation but owes overdue support, the withholding shall be for the amount of the obligor's most recent periodic support obligation.
- "(c) Upon a motion by a party or the IV-D agency, the Court may order withholding of an amount that differs from the amount required for overdue support pursuant to subsection (a) or (b) of this section if the Court finds that the amount required would:
 - "(1) Cause a substantial hardship to the obligor; or
 - "(2) Result in an unreasonable delay in the full payment of the overdue support.
- "(d) A notice or order to withhold served on a holder in accordance with this act shall have priority over any other legal process under District law, and shall not exceed the limitations set forth under section 303(b) of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 U.S.C. § 1673(b)).
- "(e) The Collection and Disbursement Unit shall establish procedures for the prompt return to an obligor of any amounts it receives that have been improperly withheld.
- "(f) Nothing in this act shall be construed to require a judicial or administrative hearing before the implementation of withholding:
- "(g) An order to withhold issued in accordance with this act shall be binding on each present and future holder upon whom it is served until the holder is notified of its termination in writing by the Court or the IV-D agency. Upon a motion filed by a party or the IV-D agency, the Court may enforce an order to withhold issued by the IV-D agency in the same manner as the Court may enforce a judicial order, including civil contempt.
- "(h) Where a party or entity registers a support order entered in another jurisdiction for enforcement pursuant to the Uniform Interstate Family Support Act of 1995, effective February 9, 1996 (D.C. Law 11-81; D.C. Official Code § 46-301.01 et seq.), withholding shall be implemented in the same manner and subject to the same procedures as a support order entered in the District of Columbia.".
 - (j) Section 10 (D.C. Official Code § 46-209) is amended to read as follow:

- "Sec. 10. Notice of withholding to the obligor.
- "(a) If a support order becomes enforceable by withholding pursuant to section 8(d), the IV-D agency shall send a notice of withholding to the obligor and shall certify the date the notice is mailed.
 - "(b) The notice of withholding to the obligor shall include the following:
 - "(1) Notice that withholding has commenced;
- "(2) A statement of any arrearage that has accrued, the amount of the support obligation that is accruing, and the periodic amount required to be paid in the future;
- "(3) A statement of the amount of the obligor's earnings or other income that shall be withheld;
- "(4) A statement that the withholding shall apply to any current and subsequent employer or period of employment;
- "(5) A statement that the obligor has the right to object to the withholding, a statement of the procedures available for objecting to the withholding, and a statement that the only basis for objecting to the withholding is a mistake of fact as defined in section 11(c);
- "(6) A statement of the actions that will be taken if the obligor objects to the withholding; and
 - "(7) A statement of the information given to the holder pursuant to section 12.
- "(c) The IV-D agency shall send the notice of withholding to the obligor within 15 days after serving the order to withhold on the holder.".
 - (k) Section 11 (D.C. Official Code § 46-210) is amended to read as follows:

"Sec. 11. Objections to withholding.

- "(a) An obligor may object to a withholding commenced pursuant to section 8a by filing a motion to quash the withholding with the Court within 15 days after the earlier of the date the notice of withholding was mailed or the date the first payment was withheld.
- "(b) The Court shall resolve any motion to quash the withholding within 90 days after service of the motion on the opposing party, unless, upon a showing of good cause, the Court finds that additional time is needed to resolve the motion.
- "(c) The only ground for an objection to a withholding is a mistake of fact, which is defined as:
 - "(1) A mistake in the amount of arrears;
 - "(2) A mistake in the identity of the obligor; or
- "(3) A mistake in the amount of the withholding that causes the amount withheld to exceed the limits specified in section 9 or section 303(b) of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 U.S.C. § 1673(b)).
- "(d) Payment of arrearages after the date of issuance of a notice of withholding to the obligor pursuant to section 10 is not a defense to the withholding.
- "(e) The Court shall deny the motion in all cases except where the identity of the obligor is mistaken or, if applicable, where arrearages have never equaled one month of support

payments, and shall notify the obligor.

- "(f) If the Court determines that the amount to be withheld exceeds the limits of section 9 or section 303(b) of the Consumer Credit Protection Act, the Court shall serve or direct the IV-D agency to serve an order to withhold on the holder that complies with those limits.
- "(g) The Court shall deny any request to stay the withholding pending resolution of an objection or appeal.".
 - (1) Section 12 (D.C. Official Code § 46-211) is amended to read as follows:

"Sec. 12. Notice to withhold to the holder.

- "A notice or order to withhold served pursuant to section 8a shall be issued in the format required by federal law and shall state the following:
- "(1) The amount to be withheld, including any fee deducted and retained under section 13:
- "(2) That the amount to be withheld shall not exceed the limits imposed under section 303(b) of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 U.S.C. § 1673(b));
- "(3) That the holder shall withhold from the obligor's earnings or other income the amount specified in the notice or order to withhold, pay the withheld amount to the Collection and Disbursement Unit within 7 business days after the date the income would have been paid to the obligor, and report to the Collection and Disbursement Unit the date on which the amount was withheld;
- "(4) That the holder shall begin withholding no later than the first pay period occurring 10 days after the date the notice or order to withhold was issued;
- "(5) That the holder may deduct and retain an additional \$ 2 for processing costs or, if applicable, an amount permitted under section 13(e);
 - "(6) That the withholding is binding on the holder until further notice;
- "(7) That the holder may be fined in accordance with section 20(c) for discharging an obligor from employment, refusing to employ an obligor, or taking disciplinary action against an obligor because of the withholding;
- "(8) That, if the holder fails to withhold support payments from earnings or other income or remit these payments to the Collection and Disbursement Unit as required under this act, the holder shall be liable as specified in section 14;
- "(9) That the withholding has priority over any other legal process under District law;
- "(10) That the holder may combine withheld amounts from more than one obligor in a single payment and separately identify the portion of the payment that is attributable to each obligor;
- "(11) That the holder shall withhold according to the requirements of section 13; and
 - "(12) That the holder shall give notice to the IV-D agency of a termination of the

obligor's employment as required by section 17.".

- (m) Section 13 (D.C. Official Code § 46-212) is amended to read as follows:
- "Sec. 13. Holder's duty to withhold and make payments.

Note, § 46-212

- "(a) Except as provided in subsection (e) of this section, a holder that receives a notice or order to withhold issued in accordance with this act shall withhold the specified amount and make payment to the Collection and Disbursement Unit no later than 7 business days after the date the amount would have been paid or credited to the obligor. The holder shall begin withholding no later than the first pay period occurring 10 days after the date the notice or order to withhold was issued.
- "(b) If a holder receives notice of any legal proceeding challenging the withholding or the judgment or order of support on which it is based, the holder shall continue to withhold and submit the payments to the Collection and Disbursement Unit until the holder receives written notice from the Court or the IV-D agency directing the holder to cease the withholding.
- "(c) Any payment made by a holder in conformity with this section shall discharge the liability of the holder to the obligor to the extent of the payment.
- "(d) A holder upon whom a notice or order to withhold has been served may deduct and retain from the obligor's earnings or other income an additional \$ 2 for each deduction made in accordance with the notice or order to withhold. Where the total amount to be withheld, together with a fee, exceeds the limitations set forth in section 303(b) of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 U.S.C. § 1673(b)), the holder shall reduce the amount of the withholding to conform with these limitations, but the amount of the fee shall not be reduced by reason of the limitations.
- "(e) Notwithstanding any other provision of this act, if a holder receives a notice or order to withhold issued by another state, the holder shall apply the income withholding law of the state of the obligor's principal place of employment in determining:
 - "(1) The holder's fee for processing the notice or order to withhold;
 - "(2) The maximum amount permitted to be withheld from the obligor's income;
- "(3) The time periods within which the holder must implement the withholding and forward the support payment;
- "(4) The priorities for withholding and allocating income withheld for multiple support obligees; and
- "(5) Any withholding terms or conditions not specified in the notice or order to withhold.".
 - (n) Section 14 (D.C. Official Code § 46-213) is amended as follows:
 - (1) Subsection (a) is amended as follows:

Note, § 46-213

- (A) Strike the phrase "income or other earnings" and insert the phrase "earnings or other income" in its place.
- (B) Strike the phrase "obligor," and insert the phrase "obligor, obligee," in its place.

Note,

\$ 46-214

ENROLLED ORIGINAL

(C) Strike the phrase "responsible relative,".

- (2) Subsection (b) is amended by striking the phrase "failure to withhold" and inserting the phrase "failure to withhold or make payment" in its place.
 - (o) Section 15 (D.C. Official Code § 46-214) is amended to read as follows:

"Sec. 15. Termination of withholding.

"(a) Withholding shall terminate:

- "(1) When the support obligation has been terminated and the total arrearage has been satisfied;
- "(2) When the holder, by reason of termination of employment or other reason, no longer holds earnings or other income payable to the obligor;
- "(3) When the payee has failed to give notice to the Court and the IV-D agency of a change of address as required by section 27b, and the holder receives written notice from the Court or the IV-D agency that withholding is no longer required; or
- "(4) When the holder receives written notice from the Court or the IV-D agency that withholding is no longer required based on information received from another jurisdiction.
- "(b) The Court shall provide the IV-D agency with a copy of each notice of termination it issues to a holder within 2 business days after issuance.
- "(c) If, because of the failure of a payee to give notice to the Court and the IV-D agency of a change in address as required by section 27b, the Collection and Disbursement Unit is unable, for a 3-month period, to deliver payments received pursuant to a notice or order to withhold, the IV-D agency shall send written notice to the holder to cease the withholding. The Collection and Disbursement Unit shall prorate and apply the undeliverable payments to satisfy amounts the obligor owes under other support orders, and shall prioritize these payments in accordance with section 18. If the obligor does not owe support under an additional support order, the Collection and Disbursement Unit shall apply the payments to any fees or debts owed to the IV-D agency and return thebalance of the undeliverable payments, if any, to the obligor.".
- (p) Section 16 (D.C. Official Code § 46-215) is amended by striking the phrase "of withholding issued by the Court" and inserting the phrase "to withhold issued by the IV-D agency" in its place.

(q) Section 17 (D.C. Official Code § 46-216) is amended as follows:

- (1) Subsection (a) is amended by striking the word "Court" and inserting the phrase "IV-D agency" in its place.
 - (2) Subsection (b) is amended to read as follows:
- "(b) The IV-D agency shall serve an order to withhold on the obligor's new employer within 2 business days after receipt of information regarding the obligor's new place of employment, or within 2 business days after the date information regarding the obligor is entered into the District of Columbia Directory of New Hires pursuant to section 27f, whichever occurs first.".

(r) Section 18(b) (D.C. Official Code § 46-217(b)) is amended to read as follows:

Note, § 46-217

Note. § 46-215

Note.

§ 46-216

- "(b) If current support payments do not exceed the limits of section 303(b) of the Consumer Credit Protection Act, the Collection and Disbursement Unit shall prorate payments toward health insurance coverage, medical support, arrearages, and other costs and fees among the orders and prioritize these payments in accordance with section 108 of the Medical Support Establishment and Enforcement Amendment Act of 2004, effective March 30, 2004 (D.C. Law 15-130; D.C. Official Code § 46-251.08), and applicable federal requirements."
 - (s) Section 19 (D.C. Official Code § 46-218) is amended to read as follows:

Note, § 46-218

- "Sec. 19. Voluntary income withholding.
- "(a) An obligor may obtain voluntary income withholding by filing with the IV-D agency a request for withholding and, if the support order is from another jurisdiction, a certified copy of the support order.
- "(b) Upon receipt of a request under subsection (a) of this section, the IV-D agency shall serve an order to withhold on the holder specified in the obligor's request. Payments shall be made through the Collection and Disbursement Unit.".
 - (t) Section 20 (D.C. Official Code § 46-219) is amended as follows:

Note, § 46-219

- (1) Subsection (a) is amended as follows:
 - (A) Strike the phrase "employee or" wherever it appears.
 - (B) Strike the word "child" after the phrase "purposes of paying".
- (2) Subsection (b) is amended by striking the phrase "the notice to the holder pursuant to section 12," and inserting the phrase "a notice or order to withhold," in its place.
- (3) Subsection (d) is amended by striking the word "child" after the phrase "duty of".
- (u) Section 21 (D.C. Official Code § 46-220) is amended by striking the word "order" after the phrase "satisfy the withholding".

Note, § 46-220

(v) Section 22 (D.C. Official Code § 46-221) is amended by striking the phrase "notice of withholding" and inserting the phrase "notice or order to withhold" in its place.

Note, § 46-221

(w) Section 23 (D.C. Official Code § 46-222) is amended to read as follows: "Sec. 23. Interstate withholding.

Note, § 46-222

- "(a) Upon receipt of notice from another state that withholding is required to enforce a support order, including all documents and information necessary to carry out the withholding, the IV-D agency shall implement the withholding in accordance with section 8a.
- "(b) If the IV-D agency determines that the obligor is no longer employed in the District of Columbia, the IV-D agency shall provide the initiating jurisdiction with the name and address of the obligor and the obligor's new employer, if known.
- "(c) The IV-D agency, upon receiving a certified copy of a modification of a support order entered or registered in the District of Columbia, shall initiate necessary procedures to amend or modify a withholding that is based on the support order that has been modified.".
 - (x) Section 24 (D.C. Official Code § 46-223) is amended to read as follows:

Note, § 46-223

"Sec. 24. Initiation of withholding in other jurisdictions.

- "(a) When an obligor under a support order derives income in another jurisdiction, the IV-D agency, the Court, or any other appropriate person or entity may serve a notice or order to withhold on a holder in the jurisdiction where the obligor receives income.
- "(b) In any case being enforced by the IV-D agency pursuant to title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C.S. § 651 et seq.), where the IV-D agency determines that the obligor derives income in another jurisdiction and that interstate withholding is necessary to enforce the support order, the IV-D agency shall, within 20 days of this determination, notify the IV-D agency in the jurisdiction in which the obligor derives income to implement interstate withholding. The notice shall include all information necessary to carry out the withholding, including:
 - "(1) The amount requested to be withheld;
 - "(2) A copy of the support order with all modifications; and
 - "(3) A statement of arrears, if appropriate.".
- (y) Section 25(c) (D.C. Official Code § 46-224(c)) is amended by striking the phrase "subsection (a)" and inserting the phrase "subsection (b)" in its place.

Note, § 46-224

Note, § 46-224.02

(z) Section 25b (D.C. Official Code § 46-224.02) is amended to read as follows:

s:

"Sec. 25b. Parent locator service.

- "(a) The IV-D agency is established as the District's centralized Parent Locator Service to locate parents of children in need of support.
- "(b) An officer or employee of the District shall cooperate with the IV-D agency to determine the location of a parent who is not supporting his or her child. The officer or employee shall provide any pertinent information that relates to the location, income, or property of a parent, notwithstanding any District statute, ordinance, or rule that makes the information confidential.
- "(c) A company, corporation, partnership, association, union, organization, or entity doing business in the District shall provide the IV-D agency with the following available information, if the IV-D agency certifies that the information shall be used to locate a parent of a child in need of support and that the information obtained will be treated as confidential by the IV-D agency unless the parent's name is published or reported to a consumer credit reporting agency pursuant to section 26:
 - "(1) Full name of the parent;
 - "(2) Name and address of the parent's employer;
 - "(3) Social security number of the parent;
 - "(4) Date of birth of the parent;
 - "(5) Home address of the parent;
 - "(6) Amount of wages earned by the parent; and
- "(7) Number of dependents claimed by the parent on state and federal income withholding forms.
 - "(d) A person may not knowingly refuse to give the IV-D agency information that will

assist the IV-D agency in locating the parent of a child.

- "(e) A person who knowingly refuses to provide information or provides false information that has been requested pursuant to subsection (c) of this section, upon conviction, shall be imprisoned for not more than 3 months, fined not more than \$1,000, or both."
 - (aa) Section 26b (D.C. Official Code § 46-225.02) is amended to read as follows:

"Sec. 26b. Criminal contempt remedy for failure to pay child support.

- "(a) The Mayor or a party who has a legal claim to child support may initiate a criminal contempt action for failure to pay the support by filing a motion in the civil action in which the support order was established.
- "(b)(1) Upon a finding by the Court that an obligor has willfully failed to obey a lawful support order, the Court may:
 - "(A) Commit the obligor to jail for a term not to exceed 180 days;
- "(B) Order the obligor to participate in a rehabilitative program, if the Court determines that participation would assist the obligor in complying with the support order and access to such program is available;
- "(C) Order the obligor to accept appropriate available employment or participate in job search and placement activities; or
- "(D) Place the obligor on probation under such conditions as the Court may determine and in accordance with the provisions of the criminal procedure law.
- "(2) The Court may direct that an obligor's commitment may be served upon certain specified days or parts of days. The Court may suspend all or part of a sentence and may, at any time within the term of the sentence, revoke the suspension and commit the obligor for the remainder of the original sentence. A period of commitment shall not prevent the Court from committing the obligor for a subsequent failure to comply with a support order.
- "(3) For the purposes of paragraph (1)(B) of this subsection, the term "rehabilitative program" shall include work preparation and skill programs, non-residential alcohol and substance abuse programs, and educational programs.
- "(c) The Court shall order the obligor to pay the petitioner's attorney's fees as well as court costs, unless good cause can be demonstrated on the record against this result.
- "(d) For purposes of this section, failure to pay child support, as ordered, shall constitute prima facie evidence of a willful violation. This presumption may be rebutted if the obligor was incarcerated, hospitalized, or disabled during the period of nonsupport. These circumstances do not constitute an exhaustive list of circumstances that may be used to rebut the presumption of willfulness.
- "(e) The Court shall not deny a request for relief pursuant to this section unless the facts and circumstances constituting the reasons for its determination are set forth in a written memorandum of decision."
 - (bb) Section 27 (D.C. Official Code § 46-226) is amended as follows:
 - (1) Subsection (a) is amended by striking the phrase "notice of income

Note, § 46-226

§ 46-225.02

withholding," and inserting the phrase "notice or order to withhold," in its place.

- (2) Subsection (b) is amended by striking the phrase "an income withholding notice" and inserting the phrase "a notice or order to withhold" in its place.
 - (cc) Section 27c (D.C. Official Code § 46-226.03) is amended as follows:

Note.

§ 46-226.03

(1) Subsection (a) is amended as follows:

(A) Paragraph (2) is amended by inserting a comma after the word

"company".

- (B) Paragraph (4)(H) is amended by striking the phrase "Department of Public Works, Bureau of Motor Vehicle Services;" and inserting the phrase "Department of Motor Vehicles;" in its place.
 - (C) Paragraph (6) is amended to read as follows:
- "(6) Order income withholding, including the amount of periodic support payments and any additional amount for health insurance coverage, medical support, overdue support payments, and other costs or fees required under a support order;".
- (2) Subsection (b) is amended by striking the period at the end and inserting the phrase ", except that the IV-D agency shall provide notice of withholding to the obligor only as required pursuant to section 10." in its place.
- (3) Subsection (c) is amended by adding the sentence "This subsection shall not apply to IV-D agency actions related to the withholding of earnings or other income under this act." at the end.
 - (4) Subsection (e) is amended as follows:
 - (A) Strike the phrase "Family Division of the Superior" in the first

sentence.

(B) Strike the word "Superior" wherever it appears in the third

sentence.

- (5) Subsection (f) is amended by striking the word "Superior" wherever it appears.
 - (dd) Section 27f (D.C. Official Code § 46-226.06) is amended as follows:

Note, § 46-226.06

- (1) Subsection (f) is amended to read as follows:
- "(f) Within 2 business days after the date a report under subsection (b) of this section is entered into the District of Columbia Directory of New Hires, the IV-D agency shall transmit an order to withhold to the employer in accordance with this act, unless the employee's income is not subject to withholding.".
- (2) Subsection (i) is amended by adding the phrase "of the District of Columbia" after the phrase "Superior Court".
- (ee) Section 27g(a) (D.C. Official Code § 46-226.07(a)) is amended by striking the sentence "For the purposes of this section, the term "business day" means a day on which District government offices are open for regular business.".
 - (ff) Section 27i (D.C. Official Code § 46-226.09) is amended as follows:

Note, § 46-226.07 Note, § 46-226.09

- (1) Strike the phase "assistance under TANF" and insert the phrase "public assistance" in its place.
 - (2) Strike the word "Superior".

Sec. 4. Applicability.

This act shall apply as of October 24, 2005.

Sec. 5. Fiscal impact statement.

The Council adopts the June 20, 2005 fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman

Council of the District of Columbia

ñ. h. Mins

Mayor

District of Columbia

APPROVED, November 17, 2005.

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

D.C. ACT 16-201

NOVEMBER 17, 2005

Codification District of Columbia Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

To amend, on an emergency basis, the Water Pollution Control Act of 1984 to provide that revenues from fishing and hunting licensing schemes shall not be used for purposes other than the administration of the District's Fisheries and Wildlife Division in its role of protecting and managing aquatic life.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Water Pollution Control Emergency Amendment Act of 2005".

Sec. 2. Section 4(b)(3) of the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code § 8-103.03(b)(3)), is amended to read as follows:

Note, § 8-103.03

"(3) Revenues from licensing regulatory schemes under this section shall not be diverted for purposes other than the administration and management of the District's fisheries and wildlife resources. License fees paid by anglers and other users of these resources shall not be used for purposes other than the administration of the District's Fisheries and Wildlife Division."

Sec. 3. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

hairman

Council of the District of Columbia

Mayor

District of Columbia

APPROVED

November 17, 2005

AN ACT D.C. ACT 16-202

Codification District of Columbia Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA NOVEMBER 17, 2005

To amend, on an emergency basis, An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes to require the Mayor to include as part of a proposed resolution for the disposition of real property an analysis of economic factors and a description of how economic factors will be weighted and evaluated, and in the case of any property to be disposed of through a request for proposals or competitive sealed proposals, to require the Mayor to use economic factors as one of the criteria for evaluating the request for proposals or competitive sealed proposals.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Real Property Disposition Economic Analysis Emergency Amendment Act of 2005".

Sec. 2. Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), is amended as follows:

Note, § 10-801

(a) A new subsection (b-1) is added to read as follows:

"(b-1)(1) A proposed resolution for the disposition of real property transmitted to the Council after January 29, 2004 pursuant to subsection (b) of this section shall be accompanied by an analysis prepared by the Mayor of the economic factors and other stated policy objectives to be considered in disposing of the real property, including, when appropriate to the chosen method of disposition, how competition may be maximized.

"(2) The analysis shall describe how economic factors and other stated policy objectives will be weighted and evaluated in the disposition process, and shall include, as appropriate, estimates, with supporting documentation, of the monetary benefits and costs to the District that will result from the disposition. The benefits analyzed shall include revenues, fees, and other payments to the District, as well as the creation of jobs."

(b) A new subsection (e-1) is added to read as follows:

"(e-1) In the case of any real property to be disposed of pursuant to this section through a request for proposals or competitive sealed proposals, the Mayor shall include economic factors and other policy objectives, if any, including revenues, fees, and other payments to the District, as part of the evaluation criteria that will be used to evaluate the request for proposals or competitive sealed proposals."

Sec. 3. Applicability.

This act shall apply as of November 19, 2005.

Sec. 4. Fiscal impact statement.

This legislation will not have an adverse impact on the District of Columbia's financial plan and budget because the only changes it would make to current law would be (1) to require an economic analysis to be part of a proposed real property disposition, (2) to require the Mayor to explain how economic factors will be weighted and evaluated in the disposition process, and (3) in the case of a request for proposals or competitive sealed proposals, to require the Mayor to use economic factors as one of the evaluation criteria in evaluating proposals. The legislation is prospective in its application, and would not affect any real property disposition resolutions that have already been transmitted to the Council. By increasing the emphasis on economic factors while giving the Mayor considerable latitude in weighing other factors, such as economic and community development, the legislation would either have a positive or neutral fiscal impact.

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chair*i*nan

Council of the District of Columbia

Mayor

District of Columbia

APPROVED

AN ACT D.C. ACT 16-203

Codification
District of
Columbia
Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 17, 2005

To amend, on an emergency basis, section 47-3701(4) of the District of Columbia Official Code to clarify that the estate tax filing threshold of \$1 million applies to decedents whose death occurs on or after January 1, 2003.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Estate and Inheritance Tax Clarification Emergency Act of 2005".

Sec. 2. Section 47-3701(4) of the District of Columbia Official Code is amended as follows:

Note, § 47-3701

- (a) Subparagraph (B) is amended to read as follows:
 - "(B) For a decedent whose death occurs on or after January 1, 2002:
- "(i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code;
- "(ii) Any scheduled increase in the unified credit provided in section 2010 of the Internal Revenue Code or thereafter shall not apply and the amount of the unified credit shall be \$675,000; and
- "(iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed \$675,000.".
 - (b) A new subparagraph (C) is added to read as follows:
 - "(C) For a decedent whose death occurs on or after January 1, 2003:
- "(i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code;
- "(ii) Any scheduled increase in the unified credit provided in section 2010 of the Internal Revenue Code or thereafter shall not apply and the amount of the unified credit shall be \$345,800; and
- "(iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed \$1 million.".

1

West Group Publisher, 1-800-328-9378.

Sec. 3. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

*ha*irman

Council of the District of Columbia

Mayor

District of Columbia

APPROVED

AN ACT

D.C. ACT 16-204

Codification District of Columbia Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 17, 2005

To amend, on an emergency basis, the District of Columbia Public Assistance Act of 1982 to provide for confidentiality of information for individuals applying for or receiving public benefits through the Department of Human Services, Income Maintenance Administration, and to authorize the Mayor to issue rules pertaining to the release and disclosure of such records.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Assistance Confidentiality of Information Emergency Amendment Act of 2005".

Sec. 2. Section 904 of the District of Columbia Public Assistance Act of 1982, effective April 20, 1999 (D.C. Law 12-241; D.C. Official Code § 4-209.04), is amended to read as follows:

Note, § 4-209.04

- "904. Confidentiality of information.
- "(a) For the purposes of this section, the term:
- "(1) "Administering" means running public benefits programs in a manner that complies with District of Columbia or federal laws, rules, or regulations.
- "(2) "Applicant" means an individual who has submitted an application for services under one or more IMA programs.
- "(3) "Disclosure" means the release, transfer, provision of, provision of access to, or distribution of information in any manner by an entity holding the information to a person outside of the entity.
- "(4) "Health Insurance Portability and Accountability Act" means the Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (Pub. L. 104-191; 110 Stat. 1936), and the regulations issued thereunder, 45 C.F.R. Parts 160 and 164, enacted for the primary purpose of safeguarding the privacy of an individual's protected health information by restricting the use or disclosure of the information to certain limited circumstances, such as treatment by medical providers, payment of medical bills, or health care operations.

1

Codification District of Columbia Official Code, 2001 Edition

West Group Publisher, 1-800-328-9378.

- "(5) "IMA" means the Income Maintenance Administration within the Department of Human Services.
- "(6) "IMA programs" means public benefit programs, including TANF, POWER, Medical Assistance (including Medicaid), Food Stamps, Interim Disability Assistance, Burial Assistance, Refugee Resettlement Assistance, General Assistance for Children, and programs under titles I, V-A, IV-D, XVI, or XIX of Title 21 of the Social Security Act, approved August 14, 1935 (49 Stat. 757; 42 U.S.C. § 301 et seq.).
- "(7) "Individual's representative" means a person authorized in writing to review or copy an applicant's or recipient's record, or submit or receive information on behalf of the applicant or recipient by:
 - "(A) The applicant or recipient;
 - "(B) A court of competent jurisdiction; or
- "(C) A person otherwise authorized by law to make decisions on behalf of the applicant or recipient, including decisions related to health care, such as the custodial parent, legal guardian, or personal representative, as set forth at 45 C.F.R. § 164.502(g).
- "(8) "Recipient" means an applicant who meets the eligibility requirements and has been determined eligible to receive services through an IMA program.
 - "(9) "Personal notes" means:
- "(A) Mental health information regarding an applicant or recipient disclosed to a mental health professional in confidence by other persons on condition that such information not be disclosed to the applicant or recipient, or to other persons; and
- "(B) A mental health professional's speculations about the applicant or recipient.
 - "(10) "Personal representative" means a person who:
- "(A) Under applicable law, has the authority to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care;
- "(B) Is an executor, administrator, or other person who, under applicable law, has authority to act on behalf of a deceased individual or the individual's estate; or
- "(C) Is a parent, guardian, or other person acting in loco parentis who may have the authority to act on behalf of an unemancipated minor, as more fully set forth at 45 C.F.R. § 164.502(g).
- "(11) "Protected health information" means any individually identifiable information, whether oral or recorded, in any form or medium, that is created or received and relates to the past, present, or future physical or mental health condition of an applicant or recipient, or to the payment for health care for an applicant or recipient.
- "(12) "Record" or "applicant's or recipient's record" means any hard copy or electronic item, collection, or grouping of information, which includes protected health information, relating to an applicant or recipient that is maintained, collected, used, or disseminated for the purpose of administering an IMA program. The term "record" or

"applicant's or recipient's record" includes information that the government of the District of Columbia collects and stores by the operation or administration of computerized public benefits eligibility screening tools.

- "(b) IMA shall keep records to document information about applicants and recipients relating to IMA programs. The information shall be privileged and confidential and shall only be used or disclosed in accordance with this section.
- "(1) The applicant or recipient has a right to privacy and shall be provided with a written notice about IMA's privacy practices and the conditions governing inspection of records. A copy of the notice shall be maintained in the applicant's or recipient's record.
- "(2) IMA shall secure the written authorization of the applicant, recipient, or individual's representative pursuant to the requirements of 45 C.F.R. § 164.508 before requesting or disclosing information about the applicant or recipient to or from other agencies or individuals. A copy of the authorization shall be maintained in the applicant's or recipient's record.
- "(3) An applicant or recipient shall submit a verbal or written request and an individual's representative shall submit a written request to access information in an applicant's or recipient's record, including protected health information. Except for pyschotherapy and personal notes, and information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding, the IMA shall make all information in the applicant's or recipient's record available to the applicant, recipient, or the individual's representative.
- "(A) IMA shall permit inspection or provide a copy of the information no later than 30 days after receiving the written request if the information is available on-site unless the applicant or recipient is under investigation pursuant to any provisions of subsection (b) of this section. If the written request is for information that is not maintained by or accessible to IMA on-site and IMA has knowledge of the information and its location, IMA must permit inspection or provide a copy of the information no later than 60 days after receiving the written request.
- "(B) If IMA authorizes disclosure to a third party, other than the applicant or recipient's individual representative, pursuant to a valid authorization, the disclosure shall be limited to the information specifically identified in a written authorization from the applicant, recipient, or the individual's representative.
- "(4) An applicant, recipient, or individual's representative who believes that information in an applicant's or recipient's record is inaccurate or misleading may request that IMA amend the information by submitting a written request for amendment setting forth the reason for the change, including documentation, where appropriate. Within 60 days after it receives the request, the IMA shall make a determination on the request and either make amendments to the record or deny the request.
 - "(A) The IMA may deny a request for amendment if the information

sought to be amended:

"(i) Was not created by IMA, unless the individual requesting the amendment provides a reasonable basis to believe that the originator of the protected health information or the information in the record is no longer available to act on the requested amendment;

"(ii) Is not part of the record;

"(iii) Is not available for inspection as provided in paragraph (3)

of this subsection; or

"(iv) Is accurate and complete.

- "(B) If the request for amendment is denied, the IMA shall provide the applicant, recipient, or the individual's representative with a written response setting forth the reason for denying the request for amendment and the procedures on how to request reconsideration of the decision, including a statement that the applicant, recipient, or individual's representative has a right to submit a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement.
- "(C) If the request for amendment is granted, the IMA shall notify the applicant, recipient, or individual's representative of the decision and how to obtain authorization concerning persons to be notified of the amendment.
- "(D) All documentation generated from a request for amendment shall be included in the record of the applicant or recipient.
- "(c) All information and records regarding an applicant or recipient provided to or created by the IMA, its representatives, or its employees, in the course of the administration of IMA programs, shall be privileged and confidential and shall only be disclosed:
- "(1) To the applicant, recipient, or individual's representative, in accordance with subsection (b) of this section;
- "(2) To a third party, with a written authorization signed by the applicant, the recipient, or the individual's representative authorizing disclosure of the specific record, or specific parts of the record; or
 - "(3) Without consent for one of the following purposes:
 - "(A) To administer IMA programs;
- "(B) To aid in any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of IMA programs;
- "(C) To administer any federal or federally-assisted program, which provides assistance, in cash or in-kind, or services directly to individuals on the basis of need;
- "(D) To verify a state employment services agency for the purposes of providing information about a public assistance recipient's eligibility for employer tax credits, except that protected health information shall not be disclosed to such agency;
- "(E) For an audit or similar activity, such as review of expenditure reports or financial review, conducted in connection with the administration of any public

assistance program by any governmental entity which is authorized by law to conduct such audit or activity:

- "(F) To administer the unemployment compensation program for the District of Columbia or any other state unemployment compensation program, except that protected health information shall not be disclosed to such agency or program;
- "(G) To report to the Metropolitan Police Department information on known or suspected instances of physical or mental injury, sexual abuse, or exploitation, or to report to the appropriate authority charged with investigating such allegations information on known or suspected instances of negligent treatment or maltreatment of a child or vulnerable adult receiving aid under circumstances which indicate that the child's or vulnerable adult's health or welfare is threatened; or
- "(H) To comply with a court order (a subpoena being insufficient) issued by a court of competent jurisdiction to compel disclosure of an applicant's or recipient's record or testimony of any Mayor's representative concerning an applicant or recipient for purposes directly related to the purposes listed in subparagraphs (A) through (G) of this paragraph.
- "(d)(1) The administrator of the IMA shall approve each request for disclosure of a record made pursuant to subsection (c)(3) of this section before the IMA releases the record, or any portion thereof. For each disclosure of a record pursuant to subsection (c)(3) of this section, the IMA shall:
 - "(A) Record the disclosure in the applicant's or recipient's record;
- "(B) Disclose only the information minimally necessary to satisfy the purpose of the request; and
- "(C) Maintain a central log accounting for disclosures of protected health information.
- "(2) An accounting for an approved disclosure shall contain, at minimum, the following:
 - "(A) The date of the disclosure;
- "(B) The name of the person or entity that received the information and, if known, the address of the entity or person;
 - "(C) A brief description of the information disclosed; and
- "(D) A brief statement of the purpose of the disclosure that states the exact basis for disclosure or, in lieu of that statement, a copy of the written request for disclosure.
 - "(3) Accounting is not required if the information is disclosed:
- "(A) To administer IMA programs, or to carry out treatment, payment, and health care operations;
 - "(B) To persons involved in the applicant's or recipient's care;
 - "(C) For national security or intelligence purposes;
 - "(D) To correctional institutions or law enforcement officials; or
 - "(E) Prior to April 14, 2003.

- "(e) The IMA shall review a requestor's credentials to verify the requestor's identity and authority before disclosing records to an applicant, recipient, or individual's representative, or to a person requesting disclosure of records pursuant to subsection (c)(3) of this section.
- "(f) The IMA shall implement appropriate procedures to ensure the security of records and to minimize inadvertent disclosures of confidential records, including protected health information.
- "(g) The IMA shall retain all information in an applicant's and recipient's record for at least 3 years after the case is closed. A request for a disclosure of information under subsection (c)(3) of this section, along with the supporting documentation for each such request that the IMA is required to maintain under subsection (d) of this section, shall be retained by the IMA for at least 6 years, and shall be disclosed to an applicant, recipient, or individual representative upon written request.
- "(h) The IMA shall ensure that IMA employees are trained on the provisions of this section and are aware that unauthorized use or disclosure of records may constitute cause for adverse or corrective personnel action.
- "(i) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et. seq.), may issue rules to implement the provisions of this section.".

Sec. 3. Applicability.

This act shall apply as of October 27, 2005.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

DISTRICT OF COLUMBIA REGISTER

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman

Council of the District of Columbia

a. Williams

Mayor

District of Columbia

APPROVED

AN ACT D.C. ACT 16-205

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA NOVEMBER 17, 2005

Codification District of Columbia Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

To amend, on an emergency basis, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to allow District of Columbia government employees who serve in the reserve units of the United States Armed Forces and who have been called or will be called to active duty as a result of Operation Enduring Freedom, or in preparation for or as a result of Operation Iraqi Freedom, to receive a pay differential.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Emergency Amendment Act of 2005".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 et seq.), is amended as follows:

(a) Section 1103(a) (D.C. Official Code § 1-611.03(a)) is amended by adding a new paragraph (7) to read as follows:

Note, § 1-611.03

"(7)(A) Any full-time permanent, term, or TAPER District government employee

who serves in a reserve component of the United States Armed Forces and who has been or will be called to active duty as a result of Operation Enduring Freedom, or in preparation for or as a result of Operation Iraqi Freedom, shall receive, upon application and approval, an amount that equals the difference in compensation between the employee's District government basic pay and the employee's basic military pay. This amount shall not be considered as basic pay for any purpose. This amount shall be paid for any period following the formal inception of Operation Enduring Freedom in 2001, any period following the beginning of the preparation for Operation Iraqi Freedom in 2002 and 2003, or for any period following the formal inception of Operation Iraqi Freedom in 2003, during which the employee is carried in a non-pay status, from the time the employee is called to active duty until the employee is released from active duty occasioned by any of these military conflicts.

"(B) The Mayor shall issue rules within 30 days of July 22, 2003 to

implement the provisions of this paragraph.".

(b) Section 1111(d) (D.C. Official Code § 1-611.11(d)) is amended by striking the phrase "and (6)" and inserting the phrase "and (7)" in its place.

Note, § 1-611.11

Sec. 3. Applicability. This act shall apply as of November 19, 2005.

Codification District of Columbia Official Code, 2001 Edition

West Group Publisher, 1-800-328-9378.

1

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement provided by the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chair man

Council of the District of Columbia

Mayor

District of Columbia

APPROVED

AN ACT

D.C. ACT 16-206

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA NOVEMBER 16, 2005

Codification
District of
Columbia
Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

To amend, on an emergency basis, the Highway Trust Fund Establishment Act of 1996 to direct revenue into the Local Roads Construction and Maintenance Fund that was inadvertently directed to the District Department of Transportation Operating Fund, and to provide that specified percentages of certain revenue may be used for debt serving; to repeal section 604a of the Fiscal Year 1997 Budget Support Act of 1996 to repeal an obsolete provision to prevent a double counting of the same revenue; and to amend the Department of Transportation Establishment Act of 2002 to provide that revenue from public space rental from sources not deposited into the Local Roads Construction and Maintenance Fund be deposited into the District Department of Transportation Operating Fund, and to provide that 100% of the sales and use taxes for parking and storing vehicles be directed for local roads construction and maintenance but providing that 50% may be used for debt servicing.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Highway Trust Fund and District Department of Transportation Emergency Amendment Act of 2005".

Sec. 2. Section 102a of the Highway Trust Fund Establishment Act of 1996, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 9-111.01a(a)), is amended to read as follows:

Note, § 9-111-012

- "(a)(1) There is established the Local Roads Construction and Maintenance Fund ("Maintenance Fund"), which shall be separate from the General Fund of the District of Columbia, into which shall be deposited without regard to fiscal year limitation, pursuant to an act of Congress:
- "(A) All revenue derived from the collection of the public rights-of-way user fees, charges, and penalties, established pursuant to 24 DCMR §§ 3302.8 through 3302.10, or any other regulations;
- "(B) One hundred percent of the sales and use taxes collected by the District for parking and storing vehicles to source funds for the Local Roads Construction and Maintenance Fund;

- "(C) One hundred percent of the revenues collected by the District for the rental of public space that is not derived from:
 - "(i) Sidewalk cafes;
 - "(ii) Surface and subsurface fuel oil space; or
 - "(iii) Vaults;
 - "(D) All other revenues authorized to be collected by the Department of

Transportation; and

- "(E) All excess monies in the District of Columbia Highway Trust Fund pursuant to section 101(e).
- "(2)(A) Up to 50% of the revenue collected pursuant to paragraph (1)(B) of this subsection from parking and storing vehicle taxes may be used for debt servicing and the remaining balance used for local roads construction and maintenance; and
- "(B) All or any portion of the revenue collected pursuant to paragraph (1)(C) of this subsection for the rental of public space may be used for debt servicing.".
- Sec. 3. Section 604a of the Fiscal Year 1997 Budget Support Act of 1996, effective October 19, 2000 (D.C. Law 13-172; D.C. Code § 10-1141.04a), is repealed.

Note Repeal § 10-1141.04a

- Sec. 4. Section 11a of the Department of Transportation Establishment Act of 2002, effective October 20, 2005 (D.C. Law 16-33; 52 DCR 7503), is amended as follows:
- (a) Subsection (a)(2) is amended by striking the phrase "Excluding monies collected in the current year, any money deposited in the DDOT Fund in the year prior to the current year and the interest earned on that money remaining" and insert the phrase "Excluding revenues collected in the current year, any revenue, including accrued revenue, deposited in the DDOT Fund in the year prior to the current year and the interest earned on those revenues remaining" in its place.
 - (b) Subsection (b) is amended as follows:
 - (1) Subparagraphs (A) and (B) are amended to read as follows:
 - "(A) Revenue collected by the District for rental of public space that is

derived from:

- "(i) Sidewalk cafes;
- "(ii) Surface and subsurface fuel oil space; and
- "(iii) Vaults;
- "(B) One hundred percent of sales and use taxes collected by the District for parking and storing vehicles channeled to source funds for the Local Roads Construction and Maintenance Fund; provided, that up to 50% of the revenue collected from these parking and storing vehicle taxes may be used for debt servicing and the remaining balance used for local roads construction and maintenance; and"."
- (2) Subparagraph (C) is amended by striking the word "proceeds" and inserting the word "revenue" in its place.

2

Sec. 5. Fiscal impact statement.

- (a) The Council adopts the fiscal impact statement of the Budget Director to the Council of the District of Columbia as the fiscal impact statement required by section 602 (c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).
- (b) The use of funds allocated in this act are already incorporated into the District's budget and financial plan and, therefore, this legislation has no fiscal impact.

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Hairman

Council of the District of Columbia

a. Williams

Mayor

District of Columbia

APPROVED

AN ACT

D.C. ACT 16-207

Codification District of Columbia Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

NOVEMBER 17, 2005

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on a temporary basis, section 47-2501 of the District of Columbia Official Code to tax natural gas based on the number of therms delivered to consumers.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Natural Gas Taxation Relief Temporary Act of 2005".

Sec. 2. Section 47-2501 of the District of Columbia Official Code is amended as follows:

Note, § 47-2501

- (a) Subsection (a) is amended as follows:
 - (1) The lead-in text is amended as follows:
- (A) Strike the phrase "each calendar month, each gas and" and insert the phrase "each calendar month, each" in its place.
- (B) Strike the phrase "nonpublic utility who sells natural or" and insert the phrase "nonpublic utility who sells" in its place.
 - (2) Paragraph (1) is amended by striking the phrase "natural or".
 - (3) A new paragraph (5) is added to read as follows:
 - "(5) After December 1, 2005, pay to the Mayor:
- "(A) 11% of these gross receipts from the sales included in bills rendered after December 1, 2005, for nonresidential customers and 10% of these gross receipts from sales included in bills rendered after December 1, 2005, for residential customers for a telephone company;
- "(B) 11% of these gross receipts from deliveries made after December 1, 2005, for nonresidential customers and 10% of these gross receipts from deliveries made after December 1, 2005, for residential customers for a person who delivers heating oil to an end-user in the District; or
- "(C) 11% of those gross receipts from the sales of artificial gas delivered by any method after December 1, 2005, for nonresidential customers and 10% of those gross receipts from sales of artificial gas delivered by any method after December 1, 2005, for residential customers by a nonpublic utility to an end-user in the District.".
 - (b) Subsection (a-2) is amended by striking the phrase "pursuant to subsection (a)(3)

1

West Group Publisher, 1-800-328-9378.

- and (4) of this subsection" and inserting the phrase "pursuant to subsection (a)(3) and (4) of this subsection and after December 1, 2005, one-eleventh of the total tax collected from nonresidential customers pursuant to subsection (a)(5) of this section" in its place.
 - (c) New subsections (a-3) and (a-4) are added to read as follows:
- "(a-3)(1) For sales included in bills rendered after December 1, 2005, before the 21st day of each month beginning January 2006, each gas company that provides distribution services to District customers shall:
- "(A) File an affidavit with the Mayor indicating the number of therms of natural gas delivered for final consumption in the District for the preceding billing period; and "(B)(i) Pay to the Mayor a tax of \$0.0703, as of December 2, 2005, for each therm of natural gas delivered to end-users in the District for the preceding billing period; and
- "(ii)(I) Pay to the Mayor a tax of \$0.00983, as of December 2, 2005, for each therm of natural gas delivered to nonresidential end-users in the District for the preceding billing period.
- "(II) Revenues received by the District pursuant to this sub-subparagraph shall be deposited in the Ballpark Revenue Fund established by § 10-1601.02. Payments under this sub-subparagraph shall be in addition to any other payments under this section.
- "(2) Each gas company that provides distribution services to District customers shall be allowed to recover the tax imposed under paragraph (1) of this section in its rates as a surcharge on customers' bills.
- "(3) The tax imposed under paragraph (1) of this subsection shall be reflected as a separate line item on each bill for distribution services sent by each gas company that provides distribution services to District.
- "(4) The amount of the tax imposed under paragraph (1) of this subsection shall be in effect during Fiscal Year 2006.
- "(a-4) Any gross receipts from sales made on or after November 1, 2005, that are not included in bills rendered after December 1, 2005, and taxed under subsection (a-3) of this section shall be taxed at the appropriate rates provided in subsection (a)(4) of this section and reported in the affidavit due on December 21, 2005."
 - Sec. 3. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

- Sec. 4. Effective date.
- (a) This act shall take effect following approval by the Mayor (or in the event of veto by

the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman

Council of the District of Columbia

Mayor

District of Columbia

APPROVED

AN ACT D.C. ACT 16-208

Codification District of Columbia Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA NOVEMBER 17, 2005

To amend, on a temporary basis, the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005 to clarify the requirements to which the Department of Small and Local Business Development must adhere when reporting to the Council on agency and government corporation compliance with local, small, and disadvantaged business enterprise procurement goals, and to clarify that procurement of materials, goods and supplies may count towards the satisfaction of local, small, and disadvantaged business enterprise construction subcontracting requirements.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Department of Small and Local Business Development Clarification Temporary Amendment Act of 2005".

- Sec. 2. The Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; 52 DCR 7503)), is amended as follows:
 - (a) Section 2346(a) is amended to read as follows:

"(a)(1) All construction contracts shall include the following requirements:

"(A) At least 35% of the dollar value, excluding the cost of materials,

goods, and supplies, be subcontracted to small business enterprises; or

"(B) If there are insufficient qualified small business enterprises to fulfill the requirement of subparagraph (A) of this paragraph, 35% of the dollar value, excluding the cost of materials, goods, and supplies, shall be subcontracted to local, small, or disadvantaged business enterprises.

(2)(A) For the purpose of paragraph (1)(A) of this subsection, purchases from small business enterprises that provide materials, goods, and supplies may apply to the 35%

requirement.

- "(B) For the purpose of paragraph (1)(B) of this subsection, purchases from local, small, or disadvantaged business enterprises that provide materials, goods, and supplies may apply to the 35% requirement.".
 - (b) Section 2354 is amended as follows:

(1) The existing language is designated as subsection (a).

(2) Paragraph (2) of the newly designated subsection (a) is amended as follows:

(A) Subparagraph (C) is amended by striking the word "and" at the end.

(B) Subparagraph (D) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(C) A new subparagraph (E) is added to read as follows:

"(E) The actual dollar amount expended with each business enterprise.".

(3) New subsections (b) and (c) are added to read as follows:

"(b) Within 45 days of its receipt of the annual reports required by section 2350(g), the Department shall submit to the Council and the Commission a report containing the following information with respect to each government corporation for the current and prior fiscal years:

"(1) The expendable budget of the government corporation;
"(2) The government corporation's achievement with respect to the requirements of section 2350; and

'(3) A list of each contract or procurement of the government corporation, which shall include the following:

"(A) A description of the contract or procurement;

"(B) The dollar amount of the contract or procurement;

"(C) The name of the business enterprise from which the goods or

services were contracted or procured;

"(D) Whether the business enterprise was a certified local, small, or disadvantaged business enterprise, and, if it was:

"(i) The category or categories under which the business

enterprise is certified; and

"(ii) The identification number of the business enterprise

assigned by the Department; "(E) The source of funding for the contract (local, federal, other, or

capital); and

"(F) The actual dollar amount expended with each business enterprise.

"(c)(1) Beginning with the first full quarter after the effective date of this subtitle, the Department shall submit to the Council, within 60 days of the end of the quarter, a copy of the quarterly reports of each agency required by section 2353(a) and a copy of the quarterly reports of each government corporation required by section 2350(f).

"(2) Beginning with the first full quarter after the effective date of this subtitle,

the Department shall submit to the Council the following:

"(A) A summary of the information that each agency is required to submit pursuant to section 2353 and the information that each government corporation is required to submit pursuant to section 2350(f), in a format that shows the cumulative progress of each agency's or government corporation's annual local, small, and disadvantaged business enterprise contracting and procurement goals to date and the actual dollar amount expended with each business enterprise for the current fiscal year; and

"(B) A list of all agencies or government corporations that have not submitted a report for that quarter and a detailed explanation of what actions were taken by the

Department to effectuate compliance with the reporting requirement.".

Sec. 3. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective Date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman

Council of the District of Columbia

Mayor

District of Columbia

APPROVED

AN ACT

D.C. ACT 16-209

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA NOVEMBER 17, 2005

To authorize, on an emergency basis, the expenditure of \$1.6 million from the cumulative cash reserve fund for the Way to Work program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Way to Work 2006 Cumulative Cash Reserve Allocation Emergency Act of 2005".

- Sec. 2. Pursuant to D.C. Official Code § 47-392.02(j)(3)(B), the Council approves the expenditure of an amount not to exceed \$1,600,000 from the cumulative cash reserve fund for the Way to Work program, of which \$615,384 shall be for the District of Columbia Public School System, \$338,462 shall be for the Department of Mental Health, \$18,462 shall be for the Department of Parks and Recreation, \$12,308 shall be for the University of the District of Columbia, and \$615,384 shall be placed in the District's Non-Departmental account and shall be disbursed among these agencies to cover contract costs associated with the implementation of the Way to Work program.
- Sec. 3. The Council adopts the fiscal impact statement provided by the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).
- Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman

Council of the District of Columbia

Mayor

District of Columbia

APPROVED

AN ACT

D.C. ACT 16-210

Codification District of Columbia Official Code

2001 Edition

2006 Winter Supp.

West Group Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA NOVEMBER 21, 2005

To amend, on a temporary basis, the Anti-Drunk Driving Act of 1982 to revise the presumptions that shall be made based upon the amount of alcohol in a person's blood, urine, or breath.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Anti-Drunk Driving Clarification Temporary Amendment Act of 2005".

Sec. 2. Section 2 of the Anti-Drunk Driving Act of 1982, effective September 14, 1982 (D.C. Law 4-145; D.C. Official Code § 50-2205.02), is amended as follows:

Note, § 50-2205.02

- (a) Strike, in the introductory subsection, the phrase "received in evidence, base upon a chemical test, competent proof to the effect that at the time of such operation:" and insert the phrase "received, based upon a chemical test, evidence of alcohol in the defendant's blood, urine, or breath, it shall give rise to the following rebuttable presumptions:" in its place.
 - (b) Paragraphs (1) and (2) are amended to read as follows:
- "(1) If at the time of testing, defendant's blood contained .05% or less, by weight, of alcohol, or defendant's urine contained .06% or less, by weight, of alcohol, or .24 or fewer micrograms of alcohol were contained in 1 milliliter of his or her breath, consisting of substantially alveolar air, this evidence shall establish a presumption that the defendant was not, at the time, under the influence of intoxicating liquor.
- "(2) If at the time of testing, defendant's blood contained more than .05% but less than .08%, by weight, of alcohol, or defendant's urine contained more than .06% but less than .10%, by weight, of alcohol, or more than .24 but less than .38 micrograms of alcohol were contained in 1 milliliter of his or her breath, consisting of substantially alveolar air, this evidence shall not establish a presumption that the defendant was or was not, at the time, under the influence of intoxicating liquor, but it may be considered with other competent evidence in determining whether the defendant was under the influence of intoxicating liquor."

Sec. 3. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement

1

West Group Publisher, 1-800-328-9378.

required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman

Council of the District of Columbia

Mayor

District of Columbia

APPROVED